

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

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|----------|---------------------------------|------|------------------|
| Case No. | CV 11-1175 PA (SSx)             | Date | January 24, 2012 |
| Title    | United States v. David Champion |      |                  |

|                                   |  |                                   |          |
|-----------------------------------|--|-----------------------------------|----------|
| Present: The Honorable            | PERCY ANDERSON, UNITED STATES DISTRICT JUDGE |                                   |          |
| Paul Songco                       | Not Reported                                 |                                   | N/A      |
| Deputy Clerk                      | Court Reporter                               |                                   | Tape No. |
| Attorneys Present for Plaintiffs: |  | Attorneys Present for Defendants: |          |
| Not Present                       |  | Not Present                       |          |

**Proceedings:** IN CHAMBERS - COURT ORDER

Before the Court is plaintiff United States' (the "Government") Motion for Summary Judgment (Docket No. 50). Pursuant to Rule 78 of the Federal Rules of Civil Procedure and Local Rule 7-15, the Court finds that this matter is appropriate for decision without oral argument. The hearing calendared for January 23, 2012, is vacated, and the matter taken off calendar.

The Government commenced this action against defendant David Champion ("Champion") to enjoin him from, among other things, continuing to provide advice to others concerning what the Government alleges to be fraudulent and false methods for evading federal tax liabilities. Defendant did not file an opposition to the Government's Motion. See Local Rule 7-12 ("The Court may decline to consider any memorandum or other paper not filed within the deadline set by order or local rule. The failure to file any required paper, or the failure to file it within the deadline, may be deemed consent to the granting or denial of the motion."). However, consistent with Marshall v. Gates, 44 F.3d 722 (9th Cir. 1995), the Court will not grant a motion for summary judgment due to the non-moving party's failure to file an opposition. Id. at 725 ("[W]e have held that a motion for summary judgment cannot be granted simply because the opposing party violated a local rule.") (citing Henry v. Gill Industries, Inc., 983 F.2d 943, 950 (9th Cir.1993)). Instead, the Court must still analyze the record to determine if any material disputed facts exist. Id.

The Government's Complaint for Permanent Injunctive Relief asserts two claims. In its first claim for relief, the Government seeks an injunction pursuant to 26 U.S.C. § 7408. Section 7408 of the Internal Revenue Code ("IRC") authorizes a district court to enjoin any person from further engaging in conduct subject to penalty under either IRC § 6700 or § 6701, if injunctive relief is appropriate to prevent recurrence of that conduct. Section 6700 provides that a penalty will be imposed against any person who organizes or assists in the organization of a partnership or other investment plan or arrangement, or participates in the sale of an interest in an entity or plan, and (a) knowingly makes, or causes to be made, a false or fraudulent statement as to the allowability of a deduction or credit, the excludability of any income, the securing of another tax benefit, because of an interest held in the entity or because of his participation in the plan, or (b) makes a gross valuation overstatement as to any material matter. Section 6701 imposes a penalty on any person who aids or assists in, procures, or advises with respect to the preparation or presentation of a federal tax return, refund claim, or other

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document, knowing or having a reason to believe that it will be used in connection with any material matter arising under the internal revenue laws, and knowing that if so used it would result in an understatement of another person's tax liability. The Government's second claim seeks an injunction pursuant to 26 U.S.C. § 7402, which authorizes a district court to issue injunctions as may be necessary or appropriate for the enforcement of the internal revenue laws, even if the United States has other remedies available for enforcing those laws.

For the past ten years if not longer, Champion has assisted people who have taxable income and are required to file income and employment tax returns avoid meeting their tax obligations by "dropping out of the system." For a fee, Champion consults with his customers, helping them negotiate their financial affairs in a number of ways. Champion's advice is based on his belief that most American citizens do not fit within the definition of "taxpayer" and thus are not subject to the internal revenue laws. In particular, Champion adopts the position that federal income tax is limited by the Constitution (i.e., the 16th Amendment) to include only income in the form of dividends, patronage dividends, and interest from corporate investment, and therefore most Americans do not owe income taxes. According to Champion, as long as an American citizen keeps his affairs private, and does not allow himself or his activities to become subject to government regulation, that individual can maintain his "nontaxpayer" status.

To make his services known, Champion owns and maintains two websites: [www.ornalintent.org](http://www.ornalintent.org), which he started in approximately 2001 or 2002, and [www.nontaxpayers.org](http://www.nontaxpayers.org), which he started about 2002 or 2003. Champion's customers can contact him through his website ([www.nontaxpayer.org](http://www.nontaxpayer.org)). Champion also has in the past broadcast his views through his own independent radio program (<http://www.americanradioshow.us/>) that has been aired through webcast and satellite. In early 2011 Champion self-published a 400-page work entitled Income Tax: Shattering the Myths that is for sale on another of his websites (<http://www.taxrevolt.us/>). The IRS secured a copy of the publication from one of Champion's customers (Joseph Petreshek), who voluntarily provided it to "explain" and defend his conduct. In the publication, Champion identifies himself as "the most knowledgeable person in the nation" with respect to its content on federal tax matters. The book includes an advertisement for Champion's services.

Via his "nontaxpayer.org" website, Champion invites potential customers (many of whom he requires to formally certify their "nontaxpayer" status in advance) to consult with him. Champion benefits economically from the services he provides his customers by charging them for his advice. Champion sent invoices to his customers and requires that "all invoices must be paid in cash," in keeping with his overall "nontaxpayer" philosophy. Once a customer agrees to work with him, Champion makes himself available (for a fee) to assist that customer with structuring their financial affairs in order to avoid payment of income and payroll taxes. To this end, he provides customers advice, helps them prepare necessary paperwork (e.g., correspondence on their behalf or contractual documents when the customer desires to establish a trust), or assists them, as an advocate, in explaining

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their new-found “nontaxpayer” status to their employers or business associates. He also informs them that, like him, their nontaxpayer status means they need not file federal tax returns.<sup>1/</sup>

Champion’s theories concerning the Government’s taxing authority are wrong. Views such as those advanced by Champion have been rejected as frivolous by all courts that have analyzed similar arguments. See generally United States v. Gerads, 999 F.2d 1255 (8th Cir. 1993) (rejecting concept that filing of income tax return is purely voluntary); United States v. Karlin, 785 F.2d 90, 91 (3d Cir. 1986) (rejecting concept that individuals are not “persons” as defined in the Internal Revenue Code); United States v. Studley, 783 F.2d 934, 937 (9th Cir. 1986) (rejecting concepts that wages do not constitute “income” subject to federal income taxation, and noting in dicta that “this argument has been consistently and thoroughly rejected by every branch of the government for decades”). For these reasons, as well as the additional arguments contained in the Government’s moving papers, the Court concludes that the Government is entitled to summary judgment against Champion.

The Court has reviewed the proposed Permanent Injunction sought by the Government. In determining the Government’s entitlement to injunctive relief, the Court has applied the standard adopted by the Supreme Court for assessing the appropriateness of issuing a permanent injunction:

According to well-established principles of equity, a plaintiff seeking a permanent injunction must satisfy a four-factor test before a court may grant such relief. A plaintiff must demonstrate: (1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction.

eBay Inc. v. MercExchange, L.L.C., 547 U.S. 388, 391, 126 S. Ct. 1837, 1839, 164 L. Ed. 2d 641 (2006). In confirming the standard to apply when issuing injunctive relief, the Supreme Court noted that it has “consistently rejected invitations to replace traditional equitable considerations with a rule that an injunction automatically follows a [liability] determination . . . .” Id. at 392-93, 126 S. Ct. 1840.

In weighing the four factors, the Court concludes that the Government is entitled to most of the injunctive relief it requests. Champion has substantially interfered with the enforcement of the internal revenue laws by his broad propagation of completely false information about the federal tax laws, combined with promoting his false expertise in assisting customers in fully realizing the benefits of their

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<sup>1/</sup> According to the Government, Champion has not filed a federal income tax return since the mid-1990s. He was audited by the IRS in 1993 for the 1985 to 1990 tax years. For those years, as well as 1996 and 1997, he has an unpaid tax liability exceeding \$800,000, exclusive of penalties and interest.

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“nontaxed” status. Champion’s conduct interferes with the proper administration of the Internal Revenue Code because it results in either frivolous tax filings with the IRS that hinder the IRS’s ability to determine the correct tax liabilities of his customers, or causes his customers to attempt to evade the payment of taxes entirely. The IRS is accordingly forced to expend valuable resources trying to determine the correct tax liabilities of Champion’s customers and then collect such amounts. As a result of Champion’s misconduct, his customers have failed to file proper tax returns, failed to make proper payroll tax payments, and consistently understated their actual tax liability. Champion has also personally resisted legitimate efforts by the IRS to investigate his conduct by employing frivolous legal tactics and advising his customers to act in a similar fashion when they have been the subject of IRS investigation. The Court therefore finds that Champion’s conduct results in irreparable harm to the United States and to the public. There is no adequate remedy at law for his misconduct.

The Court therefore grants the Government’s Motion for Summary Judgment and will sign and enter a Permanent Injunction. The Court will modify the Government’s proposed Judgment and Permanent Injunction slightly for the sake of clarity and to facilitate possible enforcement.

IT IS SO ORDERED.

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